IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 20656 of 1995

Between:

Vukyum Venkata Seshamma w/o P. Audiseshaiah
r/o 24/2172, Military Colony, Nellore.

..... PETITIONER

AND

1 The District Collector, Nellore, Nellore District.
2 The Revenue Divisional Officer, Nellore, Nellore District.
3 The Mandal Revenue Officer, Nellore, Nellore District.
4 The Divisional Engineer, Electrical/Operations, APSEB
Nellore Rural, Nellore.
5 The Assistant Engineer, Electrical/Operations, APSEB,
Nellore Rural, Nellore.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus, declaring the proceedings Rc.No. I.353/95 dated 20-4-1995 passed by the 3rd respondent in pursuance of the notice dated 7-3-95 in proceedings Rc.no.I.353/93 in respect of the land comprised in Survey No. 543/1 of an extent of 5-00 acres situate at Gudipallipadu-II (N.R.Pet) Nellore district, as illegal and void

Counsel for the Petitioner: MR.G.RAMA GOPAL

Counsel for the Respondent Nos.1 to 3: GP FOR ASSIGNMENT

Counsel for the Respondent Nos. 4 and 5 : None appeared

The Court made the following :

ORDER:

This writ petition has been filed seeking a declaration that the proceedings in Rc.No.I.353/95 dated 20-4-1995 passed by the 3rd respondent in pursuance of the notice dated 7-3-1995 in respect of the land in S.No.543/1 to an extent of Ac.5-00 situated at Gudipallipadu-II (N.R.Pet) Nellore District as illegal and void.

Factual position in a nutshell is as follows:

Petitioner is the absolute owner of the land admeasuring Ac.5-00 in S.No.543/1 of Gudipallipadu-II (Narayanareddypet) Village, Nellore District. The petitioner purchased the said land from one Umamaheswara Rao under a registered sale deed dated 18-08-1989. Since then, she has been in possession and enjoyment of the same. While so, the 3rd respondent-Mandal Revenue Officer issued a show cause notice dated 7-3-1995 under Rule 3 of the A.P.Assigned Lands (Prohibition of Transfers) Rules, 1977 to P.Audiseshaiah, who is the husband of the petitioner, calling upon him to show cause as to why he should not be evicted from the said land. Thereafter, the 3rd respondent-Mandal Revenue Officer, without conducting proper enquiry, issued proceedings in Rc.No.353/95 dated 20-4-1995, resuming the said lands. Aggrieved by the same, Audiseshaiah filed an appeal before the 2nd respondent- Revenue Divisional Officer. However, the 2nd respondent neither disposed of the said appeal nor granted any stay of the impugned order. In the mean while, the respondents are taking steps to evict them from their land in question. Hence, the writ petition.

Learned counsel for the petitioner contends that the petitioner is the absolute owner of the land, which was sought to be resumed by the respondents. He further contends that a notice dated 7-3-1995 has been issued to her husband who is neither owner nor in possession of the land in question. He also contends that the 3rd respondent without giving proper notice and without conducting proper enquiry, resumed the said land by his final order dated 24-9-95.

Heard the learned counsel on either side.

I have perused the entire material on record. It is evident from the impugned notice that the same was issued in the name of Adiseshaiah who is the husband of the petitioner. Therefore, it is manifest that the petitioner was not given proper notice. Subsequently also the 3rd respondent, without affording any opportunity to the petitioner and without conducting proper enquiry passed the impugned proceedings.

In view of the same, without going into merits of the case, it would suffice, if the petitioner is given an opportunity to submit her explanation with all the objections raised in this writ petition to the show cause notice dated 7-3-95 within a period of eight weeks from the date of receipt of a copy of this order. On receipt of such an explanation, the 3rd respondent shall pass appropriate orders in accordance with law, within a period of eight weeks thereafter. Till passing of such orders by the 3rd respondent, the interim stay granted by this Court shall be continued.

With the aforesaid observations, the writ petition is disposed of. No costs.

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23-12-2004

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To

1 The District Collector, Nellore, Nellore District.
2 The Revenue Divisional Officer, Nellore, Nellore District.
3 The Mandal Revenue Officer, Nellore, Nellore District.
4 The Divisional Engineer, Electrical/Operations, APSEB Nellore Rural, Nellore.
5 The Assistant Engineer, Electrical/Operations, APSEB, Nellore Rural, Nellore.

6 Two CCs to GP for Assignment, High Court of AP, Hyderabad. (OUT)

7. Two CD copies.